



Respondent has both a legal and ethical obligation to correct false testimony offered on its behalf. Tex. Disciplinary Rules Prof'l Conduct R. 3.03(b); *Giglio v. United States*, 405 U.S. 150, 153 (1972); *Napue v. Illinois*, 360 U.S. 264, 269 (1959); *United States v. Mason*, 293 F.3d 826, 828 (5th Cir. 2002).

Counsel had no way of knowing prior to the September 4 hearing that Respondent planned to offer this false testimony, nor could Counsel have anticipated trial counsel would make such a demonstrably false claim. This was not a claim Respondent made in his Response to Murphy's Petition. Had Respondent done so, Counsel could have obtained the complained of exhibits as he prepared Murphy's Reply and filed them as exhibits to Murphy's Reply. It is Respondent's failure to make this argument earlier that necessitated the exhibits be included with Murphy's Brief in Support of Petitioner's Proposed Findings of Fact and Conclusions of Law. Mr. Murphy's Sixth Amendment Right to Counsel would be meaningless if he is not given an opportunity to respond to trial counsel's false explanation for her deficiency in preparing for the punishment phase of Murphy's trial.

If Respondent has evidence that supports trial counsel's claim that there were no mitigation experts in Texas before 2003, Counsel will not oppose the Court granting Respondent leave to file said evidence.

Respectfully submitted,

s/ David R. Dow

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**CERTIFICATE OF SERVICE**

I certify that November 13, 2015, a copy of the foregoing pleading was electronically served on counsel for the Respondent by filing the document with the Clerk of the Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court.

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s/ David R. Dow

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